

MAILED

AUG 1 - 2007

Before the
Federal Communications Commission
Washington, D.C. 20554

FCC 07M-25

06462

In the Matter of) WT Docket No. 07-109
)
FRANK C. RICHARDS) FCC File No. 0002666016
)
Application for New License in the)
Amateur Radio Service)

MEMORANDUM OPINION AND ORDER

Issued: July 18, 2007

; Released: July 20, 2007

1. Under consideration is the Enforcement Bureau's Motion to Dismiss Application With Prejudice and Terminate Hearing, filed on June 25, 2007, by the Enforcement Bureau ("Bureau"). An opposition to the Bureau's Motion was due to be filed on or before July 10, 2007. To date, no opposition has been filed. For the reasons which follow, the Bureau's Motion will be granted.

2. By *Hearing Designation Order*, DA 07-2184, released May 24, 2007 ("*HDO*"), the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, pursuant to delegated authority, designated this case for hearing. The issues seek to determine whether Frank C. Richards made false certifications, misrepresentations to and/or lacked candor before the Commission in applications and/or responses to Commission inquiries; to determine the effect of those representations of fact to, and candor before, the Commission on his qualifications to be licensed by the Commission; to determine, in light of the evidence adduced, whether Mr. Richards is qualified to be a Commission licensee; and to determine whether his application for a new license in the Amateur Radio Service should be granted. *HDO* at ¶ 10. In order to avail himself of the opportunity to be heard, the *HDO*, among other things, required Mr. Richards, in person or by his attorney, to file with the Commission, within 20 calendar days of the mailing to him of the *HDO*, a written appearance stating that he will appear on the date fixed for hearing and present evidence on the specified issues. *Id.* at ¶ 11.

3. A summary of the *HDO* was published in the Federal Register on June 13, 2007. 72 Fed. Reg. 32,664. In addition, a copy of the *HDO* was timely mailed to Mr. Richards by Certified Mail, Return Receipt Requested, at the address specified by him in his application. The Wireless Telecommunications Bureau subsequently received the Return Receipt, which establishes that Mr. Richards received the mailing on May 29, 2007.

4. To date, no written appearance has been filed by, or on behalf of, Mr. Richards. In addition, a prehearing conference was held on July 10, 2007, in the Commission's Washington, D.C., offices. No one attended or entered an appearance on behalf of Mr. Richards.

5. Section 1.221(c) of the Commission's Rules provides, in pertinent part, that where an applicant fails to file a written appearance within the time specified, its application "will be dismissed with prejudice for failure to prosecute." Likewise, the *HDO* in this proceeding states that, if Mr. Richards fails to file a written appearance within the requisite time period, "the Presiding Administrative Law Judge SHALL DISMISS the captioned application with prejudice for

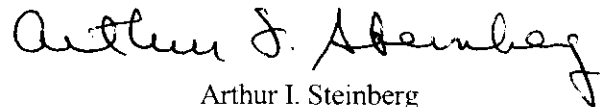
failure to prosecute." *HDO* at ¶ 12 (capitalization in original). Under all of the circumstances presented here, Mr. Richards's application must be dismissed with prejudice.

Accordingly, IT IS ORDERED that the Enforcement Bureau's Motion to Dismiss Application With Prejudice and Terminate Hearing, filed by the Bureau on June 25, 2007, IS GRANTED.

IT IS FURTHER ORDERED that the application of Frank C. Richards for a new license in the Amateur Radio Service (FCC File No. 0002666016) IS DISMISSED with prejudice.

IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Arthur I. Steinberg". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Arthur I. Steinberg
Administrative Law Judge